

By: Phelan

H.B. No. 3762

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the recovery of certain debts owed to this state;  
3 authorizing fees.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 321, Government Code, is amended by  
6 adding Subchapter B and to read as follows:

7 SUBCHAPTER B. COLLECTION OF DEBT OWED TO STATE

8 Sec. 321.551. DEFINITIONS. In this subchapter:

9 (1) "Account" includes any demand deposit account,  
10 checking account, negotiable withdrawal order account, savings  
11 account, time deposit account, money market mutual fund, or any  
12 type of mutual fund account, and intangible property. The term  
13 account does not include amounts held by a financial institution as  
14 collateral for loans extended by the financial institution.

15 (2) "Debt" a legal non-tax related obligation to pay  
16 money, including any principal, any interest that has accrued or  
17 will accrue until the debt is paid, any penalties, any costs, and  
18 any other charges permitted by law. The term debt includes any  
19 non-tax related obligation of any kind referred to the SORC for  
20 collection by the state, government, or any government agency, by  
21 the Judicial System, or by the State higher education system.

22 (3) "Debtor" means a person who is indebted to the  
23 state, government, or any government agency for any delinquent  
24 accounts, charges, fees, loans, taxes, or other indebtedness due,

1 or any obligation being collected by the SORC.

2 (4) "Employee" means any person or entity that  
3 performs services for another and includes a debtor acting as a  
4 contractor, subcontractor, distributor, agent, or in any  
5 representative capacity in which the debtor receives any form of  
6 consideration.

7 (5) "Employer" means any person or entity that pays an  
8 employee to do a specific task or tasks.

9 (6) "Financial institution" any financial institution  
10 and any other depository institution, credit union, benefit  
11 association, insurance company, safe deposit company, bond fund,  
12 money market mutual fund, and any mutual fund of any kind or  
13 character.

14 (7) "Final debt" a debt that is no longer subject to an  
15 appeal.

16 (8) "Final notification" the notification provided by  
17 section 12 of this Act.

18 (9) "Referring entity" the entity referring the debt  
19 to the SORC for collection.

20 (10) "State Obligation Recovery Center (SORC)" is not  
21 a state agency and means a benefits funded contractor procured as a  
22 third-party to recover debts owed to the state.

23 (11) "Wage" means any form of compensation due a  
24 debtor and includes wages, salary, bonus, commission, or other  
25 payment directly or indirectly related to consideration for the  
26 performance of a service.

27 Sec. 321.552. DUTIES. The SORC shall work to collect every

1 debt referred to the SORC. Exceptions to the use of the SORC are  
2 permissible if the debt includes HIPPA data. The SORC is not a debt  
3 collection agency. The character of the debt in the hands of the  
4 referring entity does not change by the referral of the debt to the  
5 SORC for collection.

6 Sec. 321.553. ANNUAL ASSESSMENT OF OUTSTANDING DEBT. The  
7 third-party vendor selected by the state auditor to operate the  
8 SORC shall preform an annual assessment of all outstanding debt  
9 eligible for referral to the SORC.

10 Sec. 321.554. GENERAL POWERS. The SORC shall have the  
11 ability to use the referring entity's statutory collection  
12 authority to recover the obligations owed to the referring entity.  
13 The SORC shall also have the authority to:

- 14 (1) Sue;
- 15 (2) File liens;
- 16 (3) Enter into payment agreements with debtors;
- 17 (4) Impose a cost recovery charge;
- 18 (5) Collect data for obligation recovery purposes;
- 19 (6) Establish and maintain a centralized electronic  
20 obligation registry;
- 21 (7) Exercise the settlement authority granted to it by  
22 the referring entity;
- 23 (8) Provide information to the motor vehicle division  
24 of the Department of Revenue regarding the non-renewal of  
25 registrations for motor vehicles, motorcycles, boats or other  
26 conveyances;
- 27 (9) Provide information to any unit of the state

1 regarding the non-renewal of professional licenses;

2 (10) Provide information to the Department  
3 responsible for hunting licenses and fishing licenses regarding the  
4 non-issuance of hunting and fishing licenses;

5 (11) Impose an administrative wage assignment  
6 process;

7 (12) Establish and maintain a financial institution  
8 data match system;

9 (13) Impose an administrative bank levy process;

10 (14) Set-off against any monies to be paid by the state  
11 to a debtor for any obligation owed by the debtor;

12 (15) Contract with collection agencies for the  
13 recovery of an obligation on behalf of the SORC;

14 (16) Utilize any other obligation recovery methods  
15 authorized by state law; and

16 (17) All other authority granted to the SORC by this  
17 Act.

18 (b) The SORC may determine which method or combination is  
19 most suitable to recover the obligation.

20 (c) A state debtor may be prohibited from renewing,  
21 obtaining or maintaining the following licenses or registrations  
22 unless the obligation and cost recovery charge is either paid in  
23 full or the debtor has entered into a payment plan with the SORC and  
24 the payment plan is current:

25 (1) Any registration for any motor vehicle,  
26 motorcycle, boat, or other conveyances;

27 (2) Any professional license; and

1           (3) Any hunting license or any fishing license.

2           Sec. 321.555 COLLECTION CHARGE. (a) To fund its  
3 operations, the SORC will collect a cost recovery charge, which  
4 shall be 20 percent of the principal amount of the obligation. All  
5 methods available to recover any obligation referred to the SORC  
6 are available to the SORC for the collection of the cost recovery  
7 charge. The SORC shall retain the cost recovery fee and transfer  
8 any monies collected from a debtor to the referring entity within  
9 thirty days after the end of the month in which the monies were  
10 collected. If the amount recovered is less than the obligation and  
11 the cost recovery charge, the amount recovered shall be prorated  
12 between the referred obligation and the cost recovery charge.

13           (b) Prior to transferring any obligation to the SORC, the  
14 referring entity shall send a final notification to the debtor that  
15 the obligation will be referred to the SORC and a 20 percent cost  
16 recovery charge will be added. Challenges to any obligation  
17 recovery by the SORC may be initiated only in writing and by the  
18 debtor.

19           (c) Any executive branch agency shall use the SORC to  
20 collect any executive branch agency debt.

21           (d) The Judicial System may use the SORC to collect any  
22 costs, fines, fees, or restitution ordered in any adult criminal  
23 proceeding.

24           (e) The state higher education system may use the SORC to  
25 collect any debt owed within the state higher education system.

26           (f) All local governments, including municipalities,  
27 counties, and townships, may use the SORC to collect any debt owed

1 them.

2 Sec. 321.556. INFORMATION FOR COLLECTION. (a) The SORC  
3 shall keep any information regarding any obligation referred to the  
4 SORC confidential. Notwithstanding any law to the contrary,  
5 referring entities are authorized to transmit data to the SORC  
6 deemed necessary by the SORC to aid in the obligation recovery.

7 (b) Information a referring entity provides to the SORC may  
8 be used only for the purpose of collecting a referred debt.

9 Sec. 321.557. REMITTANCE AND DEPOSIT OF COLLECTED AMOUNTS.

10 (a) Except as provided by Sec. 321.554 a contracted third-party  
11 vendor shall remit to the referring entity all amounts the  
12 collector collects on debts transferred to the SORC.

13 (b) The referring entity shall deposit the remitted amounts  
14 to the credit of the same funds or accounts to which the money would  
15 have been deposited if collected by the referring entity.

16 (c) If more than one debt owed by the debtor is transferred  
17 to the SORC, amounts recovered from the debtor and allocated to each  
18 referred debt in the order in which the debts were referred to the  
19 SORC or, if the debts were referred concurrently, are allocated  
20 proportionally to each debt.

21 (d) Any payment of any kind to be made to a debtor by the  
22 state, when the debtor has an obligation that is referred to the  
23 SORC, is subject to offset by the SORC unless the obligation and  
24 cost recovery charge is either paid in full or the debtor has  
25 entered into a payment plan with SORC and the payment plan is  
26 current.

27 (e) Notwithstanding other statutory provisions which

1 provide for execution, attachment, garnishment, or levy against  
2 accounts, the SORC may use an administrative wage assignment or  
3 administrative bank levy process to collect the debt referred to  
4 the SORC.

5 (f) If the SORC is unable to recover the referred  
6 obligation, the SORC, with the approval of the referring entity,  
7 may forward the obligation to a collection agency, which is  
8 permitted to add a collection charge.

9 Sec. 321.558. ANNUAL REPORT. Not later than October 1 of  
10 each year, the state auditor shall provide a written report to the  
11 legislature concerning the collection of referred debts under this  
12 subchapter during the preceding state fiscal year.

13 Sec. 321.559. RULES. The state auditor shall have the  
14 ability to promulgate rules for operation of the SORC and shall  
15 implement this subchapter by December 31, 2017. The SORC shall  
16 maintain the necessary data to provide statistical measurements of  
17 the operation of the SORC as provided in this Act.

18 SECTION 2. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect September 1, 2017.